

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. <u>11-</u>
v.	:	DATE FILED: <u>March 8, 2011</u>
DAVID M. MENGDEN	:	VIOLATIONS:
	:	26 U.S.C. § 7201 (tax evasion - 1 count)
	:	18 U.S.C. § 1505 (obstruction of justice – 2 counts)
	:	26 U.S.C. § 7203 (wilfully failing to file a tax return – 5 counts)
	:	18 U.S.C. § 1344 (bank fraud – 1 count)
		Notice of forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. From at least in or about 2001 to the date of this indictment, Genworth Financial Asset Management, Inc., including its predecessor entities (collectively referred to as “Genworth”), was an investment advisor that marketed its services to individuals and businesses.
2. On or about April 11, 1997, defendant DAVID M. MENGDEN incorporated with the Pennsylvania Department of State, the investment advisory firm Global Advisory Group, Inc., which was a small closely held corporation. Defendant MENGDEN was the president of Global Advisory Group, Inc. Global Advisory Group, Inc., was required to file an Internal Revenue Service (“IRS”) Form 1120-S as its tax return.
3. On or about December 1, 2000, defendant DAVID M. MENGDEN filed an IRS Form 1120-S tax return with the IRS for the tax year 1999, stating that Global Advisory Group, Inc., had closed its operations and was not required to file tax returns in the future.

4. From at least in or about 2001 through at least in or about 2008 defendant DAVID M. MENGDEN continued to operate Global Advisory Group, Inc., as its president.

5. An IRS Form W-2 is an IRS form that notifies the IRS and a taxpayer of the total amount of wages paid to an employee during a calendar year. An IRS Form W-2 is not prepared for funds paid to a corporation that files an IRS Form 1120-S.

6. An IRS Form 1099 is a form that notifies the IRS and a taxpayer of income paid to individuals other than wages earned by employees. An IRS Form 1099 is not prepared for funds paid to an 1120-S corporation.

7. From at least in or about 2001 through at least in or about 2008 defendant DAVID M. MENGDEN performed consulting services for Genworth in his capacity as president of Global Advisory Group, Inc., earning more than \$7 million in income during that time. Since defendant MENGDEN was not an employee of Genworth, and since defendant MENGDEN performed consulting services in his capacity as president of Global Advisory Group, Inc., Genworth never issued defendant MENGDEN a Form 1099 or a W-2. Instead, defendant MENGDEN was solely responsible for reporting all income earned from Genworth, as president of Global Advisory Group, Inc., to the IRS on an IRS Form 1120-S. Further, defendant MENGDEN was required to report to the IRS all income he received on an IRS individual tax return.

8. From in or about 2001 through in or about 2008 defendant DAVID M. MENGDEN, as president of Global Advisory Group, Inc., received approximately \$7,076,352 in income from Genworth which defendant MENGDEN was required to report to the IRS on his tax returns.

9. Between approximately 2001 and 2008, defendant DAVID M. MENGDEN directed Genworth to make his compensation payable to Global Advisory Group, Inc., so that no IRS Form 1099 or W-2 was issued to defendant MENGDEN.

10. From in or about 2001 to in or about 2009, in the Eastern District of Pennsylvania, defendant

DAVID M. MENGDEN,

a resident of Pennsylvania, willfully attempted to evade and defeat income tax due and owing by him to the United States of America for the calendar years 2004 to 2008 by concealing and attempting to conceal from all proper officers of the United States of America his true and correct income through various means, including, among other things:

a. on or about December 1, 2000, filing an IRS Form 1120-S tax return with the IRS, for the tax year 1999, stating that this was a “final return” for Global Advisory Group, Inc., and then failing to file a tax return for Global Advisory Group, Inc., for any year after 1999;

b. repeatedly directing Genworth to continue to make his compensation payable to his corporation Global Advisory Group, Inc., so that Genworth would fail to issue IRS Forms W-2 and 1099;

c. making false and misleading statements to his tax preparer about the existence of Global Advisory Group, Inc., how his income should be reported to the IRS, the amount of his compensation from Genworth, and filing false individual income tax returns after learning that the IRS was investigating his tax evasion scheme;

d. concealing the fact that he was engaged in a tax evasion scheme by

telling his mortgage lender that he could not produce his tax returns because an agreement with Genworth prevented him from doing so;

e. willfully failing to file with the Director, IRS Center, at Philadelphia, a U.S. individual income tax return, Form 1040, on behalf of himself for the tax year 2001, despite having earned an adjusted gross income of approximately \$156,018.35 for the tax year;

f. willfully failing to file with the Director, IRS Center, at Philadelphia, a U.S. individual income tax return, Form 1040, on behalf of himself for the tax year 2002, despite having earned an adjusted gross income of approximately \$401,631.05 for the tax year;

g. willfully failing to file with the Director, IRS Center, at Philadelphia, a U.S. individual income tax return, Form 1040, on behalf of himself for the tax year 2003, despite having earned a gross income of approximately \$500,929.60 for the tax year;

h. willfully failing to file with the Director, IRS Center, at Philadelphia, a U.S. individual income tax return, Form 1040, on behalf of himself for the tax year 2004, despite having earned a gross income of approximately \$705,190.65 for the tax year;

i. willfully failing to file with the Director, IRS Center, at Philadelphia, a U.S. individual income tax return, Form 1040, on behalf of himself for the tax year 2005, despite having earned a gross income of approximately \$530,742.48 for the tax year, and only filing a return after learning that the IRS was conducting an investigation of his tax evasion scheme;

j. willfully failing to timely file with the Director, IRS Center, at

Philadelphia, a U.S. individual income tax return, Form 1040, on behalf of himself for the tax year 2006, despite having earned a gross income of approximately \$1,201,987.70 for the tax year, and only filing a return after learning that the IRS was conducting an investigation of his tax evasion scheme;

k. willfully failing to file with the Director, IRS Center, at Philadelphia, a U.S. individual income tax return, Form 1040, on behalf of himself for the tax year 2007, despite having earned a gross income of approximately \$2,221,827.08 for the tax year, and only filing a return after learning that the IRS was conducting an investigation of his tax evasion scheme;

l. willfully failing to file with the Director, IRS Center, at Philadelphia, a U.S. individual income tax return, Form 1040, on behalf of himself for the tax year 2008, despite having earned a gross income of approximately \$1,357,162.17 for the tax year, and only filing a return after learning that the IRS was conducting an investigation of his tax evasion scheme.

All in violation of Title 26, United States Code, Section 7201.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. Paragraphs 1 through 9 of Count One are incorporated here.
2. On or about October 28, 2009, defendant DAVID M. MENGDEN became aware of a federal criminal investigation by IRS – Criminal Investigation (“IRS-CI”) regarding his evading the payment of taxes by, among other things, filing a “final return” with the IRS for Global Advisory Group, Inc., in 2000, continuing to use Global Advisory Group, Inc., an 1120-S corporation, to do business with Genworth, and not reporting to the IRS on a Form 1120-S for Global Advisory, Inc., or an individual income tax return, more than \$7 million in income earned during the years 2001 through 2008.
3. On or about January 13, 2010, defendant DAVID M. MENGDEN visited a tax preparer, J.B., a person known to the grand jury, and asked him to prepare for defendant MENGDEN IRS Form 1040 individual tax returns for the years 2005 through 2008 immediately because the IRS was “after him.”
4. Defendant DAVID M. MENGDEN concealed from J.B. that for years 2005 through 2008 he was the president of Global Advisory Group, Inc., and that he should have reported to the IRS the income earned for those years on an IRS Form 1120-S. Instead, defendant MENGDEN falsely told J.B. that he was simply an “investment advisor” and that his income earned from 2005 through 2008 was income to be reported on Schedule C of the 1040 tax return for which IRS Form 1099s should have been issued by Genworth. Defendant MENGDEN never told J.B. that he did not receive 1099s because he did business with Genworth in his

capacity as president of Global Advisory Group, Inc., which was not issued 1099s and was solely responsible for reporting to the IRS all income earned.

5. At defendant DAVID M. MENGDEN's direction, J.B. prepared tax returns for the years 2005, 2006, 2007, and 2008 which included the false information described above. Defendant MENGDEN caused these returns to be filed with the IRS.

6. On or about January 13, 2010, in the Eastern District of Pennsylvania, and elsewhere, defendant

DAVID M. MENGDEN

corruptly influenced, obstructed, and impeded, and endeavored to influence, obstruct, or impede, the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, that is, the ongoing investigation by IRS – CI into defendant MENGDEN's evasion of the payment of taxes, by falsely stating on IRS Form 1040s for the years 2005 through 2008 that income he earned during those years was not income to be reported on an IRS Form 1120-S, but was, instead, Schedule C income for which he should have been issued 1099s, in an effort to avoid a criminal charge of tax evasion.

In violation of Title 18, United States Code, Section 1505.

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. Paragraphs 1 through 5 of Count Two are incorporated here.
2. In or about October 2009, defendant DAVID M. MENGDEN learned that the IRS–CI was conducting an investigation into his tax evasion scheme. Following his learning of the investigation, defendant MENGDEN approached a tax preparer and had the tax preparer prepare tax returns for him.
3. On or about April 15, 2010, defendant DAVID M. MENGDEN’s father, J.M., a person known to the grand jury, received a grand jury subpoena for testimony in Philadelphia on May 4, 2010, from the federal grand jury investigating defendant MENGDEN. Defendant MENGDEN was aware that his father had received a subpoena to testify before the grand jury investigating him.
4. After learning that J.M. had received a subpoena to testify before the federal grand jury, defendant DAVID M. MENGDEN developed a false story to present to IRS–CI and the grand jury in an effort to obstruct IRS–CI’s investigation into his tax fraud scheme. Specifically, defendant MENGDEN falsely claimed that he believed that the federal income tax system was unconstitutional and that he was not required to file tax returns and communicated this false story to his father in an effort to get his father to repeat this false claim to the grand jury and federal investigators.
5. On or about April 25, 2010, after J.M. received the federal grand jury subpoena for testimony, defendant DAVID M. MENGDEN sent J.M. an email regarding the

alleged “illegality of the income tax.”

6. On or about April 25, 2010, in the Eastern District of Pennsylvania, and elsewhere, defendant

DAVID M. MENGDEN

corruptly influenced, obstructed, and impeded, and endeavored to influence, obstruct, or impede, the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, that is, the ongoing investigation by IRS-CI and the federal grand jury into defendant MENGDEN’s evasion of the payment of taxes, by suggesting to J.M., whom defendant MENGDEN knew would testify in the grand jury, that defendant MENGDEN believed the tax laws are illegal in an effort to defend against a charge of tax evasion.

In violation of Title 18, United States Code, Section 1505.

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. Paragraphs 1 through 9 of Count One are realleged here.
2. Wilmington Trust FSB (“the Bank”) was a financial institution in Baltimore, Maryland, the deposits of which were insured by the Federal Deposit Insurance Corporation.
3. In or about September and October 2007 defendant DAVID M. MENGDEN was interested in purchasing a house located at 5 Foxtail Circle, Chadds Ford, Pennsylvania, 19317, in the Eastern District of Pennsylvania.
4. In order to afford the contracted purchase price for this home, which was approximately \$3,799,991.70, defendant DAVID M. MENGDEN sought to obtain several loans, including a mortgage from the Bank in the amount of approximately \$2,659,900.
5. Before Wilmington Trust FSB agreed to lend money to defendant DAVID M. MENGDEN, R.H., a loan officer of the Bank, a person known to the grand jury, asked defendant MENGDEN to verify his income by providing personal income tax returns.
6. To conceal the fact that he had not filed tax returns and had engaged in a tax evasion scheme, defendant DAVID M. MENGDEN falsely told the loan officer that his consulting agreement with Genworth prohibited him from disclosing his income tax returns. Defendant MENGDEN concealed from the loan officer that he could not provide the tax returns because he had not, in fact, filed income tax returns for the years 2001 through 2006.
7. On or about September 18, 2007, in the Eastern District of Pennsylvania,

defendant

DAVID M. MENGDEN

knowingly executed and attempted to execute a scheme to defraud the Bank, and to obtain monies owned by and under the care, custody, and control of the Bank by means of false and fraudulent pretenses, representations, and promises.

THE SCHEME

8. In an effort to obtain a mortgage, defendant DAVID M. MENGDEN knowingly misrepresented to the Bank that he had filed tax returns for the years 2001 through 2006 when, in fact, he had not.

In violation of Title 18, United States Code, Section 1344.

COUNTS FIVE THROUGH NINE

THE GRAND JURY FURTHER CHARGES THAT:

1. From in or about January 1, 2004, through in or about December 31, 2009, defendant DAVID M. MENGDEN received gross income consisting of compensation from Genworth and his corporation Global Advisory Group, Inc.

2. During the calendar years set forth below, in the Eastern District of Pennsylvania, and elsewhere, defendant

DAVID M. MENGDEN,

a resident of Chadds Ford, Pennsylvania, had and received gross income in the amount set forth below, and that by reason of such gross income he was required by law, following the close of each calendar year and on or before April 15 of the following year, to make an income tax return to the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, or other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing this, he willfully failed to make an income tax return to the Director of the Internal Revenue Service Center, or to any other proper officer of the United States:

<u>COUNT</u>	<u>YEAR</u>	<u>GROSS INCOME</u>
5	2004	\$705,190.65
6	2005	\$530,742.48
7	2006	\$1,201,987.70
8	2007	\$2,221,827.70
9	2008	\$1,357,162.17

All in violation of Title 26, United States Code, Section 7203.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violation of Title 18, United States Code, Section 1344, bank fraud, as set forth in this indictment, defendant

DAVID M. MENGDEN

shall forfeit to the United States of America any and all property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation, including, but not limited to the sum of approximately \$3,336,900.

2. If the property subject to forfeiture, as set forth above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, another party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982.

A TRUE BILL:

GRAND JURY FOREPERSON

ZANE DAVID MEMEGER
United States Attorney